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Report of the Special Rapporteur on the situation of human rights in Belarus

Summary

The present report is submitted by the Special Rapporteur on the situation of human rights in Belarus to the Human Rights Council in accordance with its resolution (A/HRC/RES/23/15). In the report, the Special Rapporteur sets forth the developments in human rights since his report presented to the Council at its twenty-third session (A/HRC/23/52). The Special Rapporteur outlines major concerns in detail as well as regarding the general situation, which is characterized by a systemic denial of human rights to citizens by way of a purposeful combination of restrictive laws and abusive practices. Recommendations are provided as to how to improve the situation, both step-by-step and in a comprehensive manner.

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I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in Belarus was established by the Human Rights Council in its resolution 20/13. Miklós Haraszti assumed his functions on 1 November 2012, and his mandate was extended for one year (A/HRC/RES/23/15). In the present report, the Special Rapporteur describes the prevailing situation of human rights in Belarus since he presented his first report (A/HRC/23/52) to the twenty-third session of the Human Rights Council in June 2013.

2. The general situation of human rights in Belarus has not improved. The widespread disrespect for human rights that has evolved since 1991 into a regime of violations with a structural and endemic character (A/HRC/20/8) remains intact. The Special Rapporteur is concerned about the lack of progress made to improve legislation, institutions and practice, which the United Nations High Commissioner for Human Rights and the Special Rapporteur identified as being at the core of the both systematic and systemic denial of human rights (A/HRC/23/52). In his previous report, the Special Rapporteur had noted some welcome preparatory steps regarding the establishment of a national human rights institution and a parliamentary working group on the death penalty, work in the area of human trafficking and efforts to achieve the Millennium Development Goals. While work does continue in the two latter areas, no progress has been made in the creation of institutions that protect human rights.

3. The country remains the only State in Europe with a Parliament without opposition (A/68/276, para. 14). The judiciary continues to be fully dependent on the President, who names and can remove all judges and the Prosecutor-General. The lack of independence of the courts and law enforcement agencies remain coupled with intimidation against lawyers, who are forced to join the bar association that is directly supervised by the Government.

4. Capital punishment continues to be used in Belarus with no guarantee of due process. Since June 2013, the court of Belarus has sentenced four people to death. Reportedly, no executions have been carried out.

5. Due to new cases, the overall number of persons incarcerated in retaliation for their political activities has practically not diminished. Among them, a former presidential candidate and leaders of major human rights and youth organizations remain behind bars. A few political prisoners were released, but only upon completion of their prison terms, with no effort to review their cases. Despite frequent behind-the-door and public requests by international organizations and various Governments, the President has not used his power to issue an amnesty, which he can do even in the absence of a request for pardon. This strict position towards incarcerated public figures seems to reflect a determination to maintain tight restrictions on public life.

6. The economy is 70–80 per cent State-controlled, which leads to the widespread denial of labour rights with a severe suppression of the right of independent labour unions to organize.

7. The rights to freedom of opinion and expression, association, peaceful assembly and cultural rights continue to be severely restricted in law and practice, as a means to control all spheres of public life. The broadcasting system is State-owned, making media freedom impossible.

8. A highly dissuasive, permission-based regime is still the main tool to deny civil rights. It is particularly applied to limit access to information and the freedoms of expression and opinion, information, association and peaceful assembly – all key for full and inclusive participation in public life.

9. The obligation to obtain permission for any public activity is exacerbated by a practical impossibility to gain such permission for unwelcome publications, gatherings, events or associations. Procedures that regulate how to obtain permission in these areas are cumbersome, costly and time-consuming, lack transparency and deliberately allow for arbitrary outcomes.

10. The permission-based regime is further aggravated by the criminalization of all unsanctioned public undertakings. Those who organize or merely attend such events without prior permission can find themselves facing criminal or administrative charges, and may then face discrimination in various aspects of their lives.

11. Administrative arrests and short-term detention continue to be used systematically and arbitrarily in reprisal against citizens who seek to exercise independently and freely their rights to freedom of expression, association and peaceful assembly. Consequently, civil society is either muzzled or forced to operate clandestinely.

12. The unwillingness of the Government to address chronic human rights concerns and the absolute impunity for human rights violations contribute to their perpetuation. The Special Rapporteur has underlined the systemic and systematic nature of human rights violations in Belarus (A/HRC/23/52, para. 34). So has the United Nations High Commissioner for Human Rights, stating that "deficiencies pertaining to human rights in Belarus are of a systemic nature. They need to be addressed by the authorities through a comprehensive approach, which would include a review of the legislation, policies, strategies and practice pertaining to human rights" (A/HRC/20/8, para. 74).

13. It is the persistent, systemic and systematic character of the repression of all human rights in Belarus that the Human Rights Council should bear in mind. The chronic restriction of all human rights has led to recurrence of violence over the last 15 years, typically at times of elections and the announcement of their preordained outcomes, as illustrated in the crackdown on the demonstrations following the 2010 December presidential elections (A/68/276, para. 16).

14. It is critical that the Human Rights Council maintain its scrutiny of the serious human rights situation in Belarus. The regrettable lack of governmental cooperation on the mandate underlines the need to report on and monitor the human rights situation in Belarus.

15. The Special Rapporteur pays great attention to the protection and promotion of all human rights in the country, including economic, social and cultural rights. This report documents several serious concerns in these areas. Nevertheless, it is challenging to find non-governmental information on the proclaimed successes in the sphere of economic and social rights, and therefore hard to evaluate the enjoyment of these rights. If the Special Rapporteur were authorized to visit the country, he would be able to develop independent findings, including through a dialogue with the Government and other stakeholders, and, on this basis, directly assess the situation, including achievements regarding economic, social and cultural rights.

II. Methodology

16. Independence, impartiality and objectivity, and cooperation with all stakeholders are the guiding principles for the Special Rapporteur's work.

17. The refusal so far of the Government of Belarus to recognize the Special Rapporteur's mandate means that he continues to have no access to the country.

18. Nevertheless, the Special Rapporteur has continued to seek the cooperation of the Government in order to engage in a constructive dialogue. He thus submitted requests to the

Minister of Foreign Affairs and the Permanent Representative of the Republic of Belarus to the United Nations Office at Geneva for meetings and for an official visit to the country. The Special Rapporteur has received no response to any such correspondence, and again deplores that this situation limits the collection and analysis of first-hand information from in-country sources, including from the Government.

19. Notwithstanding such constraints, the Special Rapporteur has endeavoured to collect information from primary sources, which is crucial for the development of a report that is as accurate, time-bound and measured as possible. He has frequently undertaken consultationswith representatives of civil society.

20. The Special Rapporteur is grateful for the cooperation he enjoys with many stakeholders living in Belarus. The Special Rapporteur collaborated with several special procedures mandate holders to transmit two allegation letters to the Government of Belarus and issue press releases on human rights concerns. The present report refers to cases that are emblematic of the nature of the human rights violations in Belarus. They do not, however, reflect the full list of allegations submitted to the Special Rapporteur.

III. Rule of law

21. As previously reported, presidential decrees are used as the main, and in fact, supreme legislative mechanism in Belarus (A/HRC/23/52, para. 37). While Parliament is responsible for developing and adopting legislation, it is the Presidential Administration that prepares the drafts, and the President's decrees can overrule existing legislation, including constitutional law, on any issue. An example is Presidential Decree No. 6 of 29 November 2013 on improvement of the judicial system, which overhauled the court system.[1]

22. The introduction of new or revised legislation or adoption of amendments is never the result of a consultative process and systematically excludes civil society, despite frequent requests from civil society. Examples include the 2013 amendments to the law on public associations and the Electoral Code.[2]

National legislation

23. Some new pieces of legislation have been developed or adopted recently. While some may introduce improvements, there still remains concern that legislation adopted allows for an interpretation restricting rights.

24. Amendments to the law on activities of political parties and other public associations were adopted on 2 October 2013 and signed by the President on 4 November; they came into force on 20 February 2014. On 16 July 2013, a petition signed by 25 non-governmental organizations (NGOs) to hold special parliamentary hearings on improving these amendments was sent to Parliament. As this was refused, NGOs held their own discussion on 9 October 2013.[3] They assess that, overall, the new legislation does not resolve the complicated and cumbersome registration process, the criminal liability for activities of unregistered public associations and foundations and the restrictions on receiving in-country and foreign funding.

[1] http://www.obisud.vbreste.by/2012-01-26-13-41-32/80-s-29-2013-n-6-.

[2] Belarusian Telegraph Agency, "Amendments to Belarus' electoral law passed in first reading", 2 October 2013 (http://news.belta.by/en/news/politics?id=728196).

[3] http://lawtrend.org/ru/data/1221/.

25. Draft legislation on alternative civil service was introduced in Parliament on 6 February 2014, based on a request by the Constitutional Court from 2000.[4] The draft has remained under "restricted use only", with no public information on its content.

26. The Law on Population Register (2008) came into force in July 2013.[5] It establishes 49 categories of primary and additional personal data stored in the register. The legislation only protects data registered by authorized agencies. Data registered by other entities is not safeguarded by guarantees.

27. Amendments to the law on information, information technologies and protection of information were adopted in January 2014.[6] While containing legal provisions on personal data, they do not sufficiently and effectively protect it. Requests to hold public consultations involving all stakeholders and civil society met with little response.[7]

28. The law on fundamentals of crime prevention with a definition of domestic violence was adopted on 4 January 2014.[8] Protective orders are to be issued against individuals convicted of domestic violence.

IV. Engagement with the international human rights system

29. Over the years, various international human rights mechanisms – treaty bodies, special procedures and the Universal Periodic Review – have made recommendations to bring legislation, policies and practice into line with the commitments of Belarus under international human rights law. Implementation of these recommendations remains very limited.

30. On 29 November 2013, the Committee on Economic, Social and Cultural Rights requested Belarus to revise the system of short-term labour contracts, abolish forced labour of those with drug and alcohol addiction and ensure the free exercise of rights of trade unions, as well as to guarantee social protection mechanisms.

31. Belarus has continued to challenge on procedural grounds the registration of cases filed under the Optional Protocol to the International Covenant on Civil and Political Rights. To date, the Human Rights Committee has not been satisfied by the measures taken by the State party to give effect to its recommendations.

32. Belarus is midway to its second-cycle Universal Periodic Review, scheduled for 2015. It submitted a mid-term progress report in 2012. On 26 March 2014, the Ministry for Foreign Affairs and the United Nations country team held a workshop in Minsk on implementing the recommendations of the first Universal Periodic Review.

[4] Decision No D-98/2000 of 26 May 2000 on some issues of realization of Article 57 of the Constitution of the Republic of Belarus (http://www.kc.gov.by/en/main.aspx?guid=5143).

[5] http://www.pravo.by/main.aspx?guid=3871&p0=H10800418.

[6] http://www.pravo.by/main.aspx?guid=3871&p0=h10800455&p2={NRPA}.

[7] Organization for Security and Co-operation in Europe, "OSCE media freedom representative presents analysis of Belarusian information law and recommends improvements", 10 September 2013 (http://www.osce.org/fom/104711).

[8] http://pravo.by/main.aspx?guid=3871&p0=H11400122&p1=1.

V. Human rights concerns

A. Independence of the judiciary

33. In November 2013, Presidential Decree No. 6 on improving the judicial system of the Republic of Belarus was adopted. This saw some positive institutional developments: the merger of the Supreme Court and the Supreme Economic Court, with the functions of the latter transferred from the Ministry of Justice to the former, the abolishment of military courts and the removal of all district courts from the jurisdiction of the Department of Justice to that of regional courts. It is still too early to assess the impact of the Decree. It is hoped that it will bring some independence to the judiciary from the executive, and a more consistent interpretation and application of the law. However, the President remains directly responsible for appointing, dismissing and determining the tenure of judges.

34. In cases where the authorities are found to be responsible for a human rights violation, practice shows that courts rarely award non-pecuniary compensation for damages. Although the obligation to prove the legality of the action lies with the authorities against which the claim was filed,[9] court decisions often argue that it is the applicant who must prove that the authorities acted unlawfully.

35. Of particular note is that criminal cases retain an accusatory bias, as recognized by the Supreme Court in its reviews.[10] Judicial practice still presumes the credibility of the testimony of a police officer, despite the removal of this provision in 2007 from the amended law on internal affairs agencies.

36. The Special Rapporteur again emphasizes his concern at the lack of independence of the judiciary, which is inconsistent with an environment necessary for the exercise of human rights (E/C.12/1/Add.7/Rev.1, para 12). For many years, the United Nations human rights mechanisms have expressed that procedures relating to the appointment, tenure, disciplining and dismissal of judges do not comply with the principle of independence and impartiality of the judiciary.[11] There also seems to be a failure on the part of the executive to respect the decision of the Constitutional Court and thereby observe the rule of law.[12]

B. Independence of lawyers

37. The United Nations human rights mechanisms have repeatedly called on Belarus to respond to concerns of defence lawyers and address the pattern of intimidation against lawyers and of interference in their work (A/HRC/15/16, paras. 50 and 98.26). The continued failure to address this issue has a chilling effect on the independence of lawyers.[13] Like other Special Procedures mandate holders, the Special Rapporteur is concerned by the frequent targeting of lawyers who work on human rights cases.[14] He

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[9] Constitution of the Republic of Belarus, Article 60 (http://www.belarus.net/costitut/constitution_e.htm#Article%2060).

[10] http://court.by/justice_RB/ik/obzor/2010/e439740565c86a62.html.

[11] CCPR/C/79/Add.86, para. 13; E/C.12/BLR/CO/4-6, para. 6; CAT/C/BLR/CO/4, para. 12; E/CN.4/2001/65/Add.1, paras 106–114; E/CN.4/2005/6/Add.3, para. 44; E/CN.4/2005/35, paras. 29–31; A/HRC/23/52, para. 61; A/68/276, para. 83.

[12] CCPR/C/79/Add.86, para. 13; E/CN.4/2001/65/Add.1, paras. 29–3; A/HRC/4/16, para. 14.

[13] CAT/C/BLR/CO/4, para. 12(a); A/HRC/17/30/Add.1, para. 101; A/HRC/20/8, para. 75(i); A/HRC/23/52, para. 64; A/68/276, para. 76; A/HRC/25/55/Add.3, para. 61.

[14] E/CN.4/2001/65/Add.1, para. 117; A/68/276, para. 97.

reiterates his call on Belarus to reinstate the licences of lawyers revoked after they represented candidates in the 2010 presidential elections.[15]

38. Domestic legislation, including Presidential Decree No. 12, undermines the independence of the legal profession by subordinating lawyers to the control of the Ministry of Justice and introducing obligatory membership in a State-controlled bar association. The Special Rapporteur calls upon Belarus to take all appropriate measures, including a review of the Constitution and laws, to meet the international minimum standards as set out in the Basic Principles on the Role of Lawyers, which require Governments to ensure that lawyers "are able to perform all of their professional functions without intimidation, hindrance, harassment or improper interference" (para. 16), so as to ensure that judges and lawyers are independent of any political or other external pressure.[16]

C. Torture and other cruel, inhuman or degrading treatment or punishment

39. The Special Rapporteur continues to receive reports of torture and ill-treatment of those held in custody, including cases of violence in detention facilities by both prison staff and inmates under the direction of the prison administration. This includes detainees being beaten by special units of the Interior Ministry aimed at maintaining order in correctional institutions; violence towards inmates by KGB agents while in the KGB pretrial facility; physical and psychological abuse by law enforcement agents to induce a prisoner to perform certain actions or take a certain stand in the criminal case under investigation; and a group of prisoners who attempted to force fellow inmates to write a petition for a pardon or try to make them commit suicide.[17]

40. Reports demonstrate that it is virtually impossible for a person in custody to bring a complaint for torture to the prosecutor. Invariably the complaint is not processed by the prison administration and the complainant faces repercussions, such as solitary confinement or other harsh physical and psychological ill-treatment. With no oversight of places of detention, torture and ill-treatment remain unchecked.

41. While article 25 of the Constitution of Belarus prohibits torture and cruel treatment, there is no definition of torture in national legislation. In August 2013, the President submitted a draft law[18] to the House of Representatives that proposed a definition of torture be considered for inclusion as a footnote to article 128 (a) in the "Crimes against humanity" section of the Criminal Code.[19]

42. In August 2013, Minsk resident Ihar Ptichkin[20] died in unknown circumstances while in detention facility No. 1 (SIZO) in Minsk. Although the official cause of death was a heart attack, relatives believe that he died after a brutal beating by prison officials. The

[15] CAT/C/BLR/CO/4, para. 12(c); E/CN.4/2001/65/Add.1, para. 123(c); A/HRC/23/52, para. 119(f); A/HRC/23/52, para. 65.

[16] CCPR/C/79/Add.86, para. 14; A/56/44, paras. 45(g) and 46(d); CAT/C/BLR/CO/4, para 12; E/CN.4/2001/65/Add.1, paras. 116 and 123(b); E/CN.4/2005/6/Add.3, paras 45 and 82(a); E/CN.4/2005/35, paras. 33 and 93; A/HRC/20/8, para. 75(i); A/HRC/23/52, para. 67; A/68/276, para. 118(g).

[17] Human Rights Center "Viasna", *Report on the Results of Monitoring Prison Conditions in Belarus* (Minsk, 2013), p. 14 (https://spring96.org/files/book/en/2013_prison_conditions_en.pdf).

[18] http://pravo.by/main.aspx?guid=3941&p0=2013073001, para. 33.

[19] http://pravo.by/main.aspx?guid=3941&p0=2013073001.

[20] Hartiya, "Ihar Ptichkin was beaten by riot control group", 17 September 2013 (http://charter97.org/en/news/2013/9/17/75797/).

body was exhumed in December 2013, but there are no official results of the investigation.[21]

43. The Special Rapporteur continues to urge the prohibition by law of the use and practice of torture, and for a definition of torture to be adopted in line with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which Belarus has ratified. He calls for prompt, impartial and full investigations into all allegations of torture and ill-treatment, and for the prosecution and punishment of alleged perpetrators.[22] The Committee against Torture has repeatedly made such requests.[23]

D. Prison conditions

44. Some improvements in conditions of detention have been reported by NGOs. As a result of an apparent reduction of the prison population, cells are less cramped and the quality of food has improved. However, reports indicate that detention conditions put prisoners at risk of contracting chronic diseases, as they are cold and damp. This is the case in prisons in Minsk and Baranavichy and punishment cells in the colonies of Navapolatsk and Ivatsevichy.[24]

45. Article 112 of the Criminal Executive Code of Belarus defines disciplinary procedures in detention facilities. However, the interpretation of the legislation and ensuing practice are arbitrary, with reportedly little oversight,[25] despite the existence of public monitoring commissions that operate under the Ministry of Justice[26] comprising representatives of registered NGOs. The latter do undertake visits, which are reported on annually through the Ministry of Justice, yet there remains scepticism from prisoners as to their independence and effectiveness, particularly in dealing with complaints.[27]

46. It is critical to establish a complaints procedure to combat sexual violence in places of detention, in accordance with the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, and to ensure that law enforcement personnel are trained on the absolute prohibition of sexual violence.[28]

47. The Special Rapporteur urges for measures to be undertaken that bring conditions of detention into line with the standard minimum rules for the treatment of prisoners and other relevant international and national standards, and that ensure that an independent and functioning complaints mechanism is established.

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[21] Human Rights Center "Viasna", *Situation of Human Rights in Belarus in 2013: Review-Chronicle* (Minsk, 2014), p. 224 (http://spring96.org/files/reviews/en/2013_review_en.pdf).

[22] A/HRC/23/52, paras. 50–55, and CAT/C/BLR/CO/4, para. 11.

[23] CAT/C/BLR/CO/4.

[24] See footnote 17 above, p. 16.

[25] *Ibid.*, p. 32.

[26] Regulation on the Procedure of Control by the Republican and Local Public Associations Over the Bodies and Institutions Executing Punishment and Other Criminal Sanctions, approved by Decree No. 1220, Council of Ministers (15 September 2006) and the Regulations on the Procedure for the Formation and Activities of Public Monitoring Commissions, approved by Decree No. 85, Ministry of Justice of the Republic of Belarus (15 December 2006).

[27] See footnote 17 above, p.11.

[28] CAT/C/BLR/CO/4, paras. 20 and 21(c)–(d).

E. Arbitrary arrest and detention

48. The Special Rapporteur continues to receive reports from journalists, lawyers, human right defenders and members of political organizations who claim they were detained and charged with speculative administrative offences.

49. The Special Rapporteur has collected information on more than 50 cases of people subjected to administrative arrests for participating in unauthorized mass events. Similarly, individuals have been arbitrarily arrested and detained for: collecting signatures outdoors; handing out photos of political prisoners; a film screening about the Slutsk anti-Bolshevik uprising in the village of Kazlovicky; and organizing a bike carnival in Minsk. All of these were viewed by the authorities as unauthorized mass events, with participants charged for disobedience to the lawful demands of police officers, under article 23.34 (violations of the rules on holding mass events) of the Administrative Code.

50. Reports of arbitrary detention of journalists are accounted for under freedom of expression. A typical case of arbitrary detention as a means of intimidation is the arrest of 15 participants of a demonstration in memory of Ihar Ptichkin on 14 September 2013. Among those detained was Andrei Bondarenko, the Director of the NGO Platform Innovation. While in detention, the detainees were given neither legal assistance nor information on their rights. Their relatives received no information on their whereabouts.[29] They were released after nine hours.

51. Preventive detentions and the arrests of youth activists were consistently carried out by law enforcement. LGBT (lesbian, gay, bisexual and transgender) activists are typically summoned to so-called "preventive conversations" during which they are told that the existence of LGBT communities results in increased production of pornography. Maksim Dzimtryieu, Deputy Chairman of the NGO GayBelarus, was forced to have such a "conversation" on 16 August 2013.

52. New cases were reported where individuals were detained and sentenced for participating in an unsanctioned event only after the information on the event had been posted on the Internet. For example, on 30 December 2014, Aliaksandr Ivanou was charged and sentenced under article 23.34 of the Administrative Code by Hrodna District Court to a fine for posting information on the Internet about the campaign "Stop-Tax". Four days earlier, he had reported on Hrodenski Forum about a gathering for motorists on 27 December.[30]

53. A decision to detain a person continues to require sanctioning only by the prosecutor; there is still no provision for a judicial review of merit of the case. While a detainee may appeal to the court against the detention, the court may only check the legality of the procedure, not of the decision itself (A/HRC/23/52, para. 71).

54. The Special Rapporteur again recalls that the authorities of Belarus should ensure that detention may be ordered only by a judge, and that pretrial detention is used only in exceptional circumstances.

[29] International Federation for Human Rights, "Belarus: arrest and sentencing of Mr. Andrei Bondarenko", 15 November 2013 (http://www.fidh.org/en/eastern-europe-central-asia/belarus/14242-belarus-arrest-and-sentencing-of-mr-andrei-bondarenko).

[30] See footnote 21 above, p. 231.

F. Imprisonment of political opponents, human rights defenders and activists

55. In 2013, three political prisoners were released, having served their full sentence – Zmitser Dashkevich,[31] Aliaksandr Frantskevich and Pavel Seviarynets.[32]

56. As of April 2014, 10 prisoners whose sentences appear to have been politically motivated are still imprisoned – Mikalai Au'uhovich, Mikalai Statkevich, Eduard Lobau, Ales Bialiatski, Mikalai Dziakok, Ihar Alinevich, Yauhen Vaskovich, Artsiom Prakapenka, Andrei Haidukou and Vasil Parfiankou.

57. Over the past year, many continued to have limited access to relatives and lawyers, and have faced administrative punishment for alleged violations of the rules of detention. Ales Bialiatski, Head of the Human Rights Center "Viasna", has been denied any long-term visits by his wife. He was sentenced in 2011 on charges of tax evasion (A/HRC/23/52, para. 57), and has served his sentence in Penal Colony No. 2 in Babruisk. Four prisoners, Mikalai Autukhovich, Mikalai Dziadok, Mikalai Statkevich and Yauhen Vaskovich, are serving sentences in isolation under strict prison regimes for alleged violations of the rules of detention.[33] Former 2010 presidential candidate Mikalai Statkevich is serving six years in prison on charges of organizing mass riots, accompanied by "personal violence" and resistance to public agents.[34] He was transferred to Prison No. 4 in Mahiliou, after allegedly violating the rules of detention in Penal Colony No. 17 in Shkou. Such a measure is ordered by the court upon application from the prison administration, approved by the supervisory commission at the local executive and administrative body.

58. Andrei Haidukou, an opposition activist and leader of the Union of Young Intellectuals,[35] was sentenced in November 2013 by the Vitebsk Regional Court to one and a half years' imprisonment for attempting to establish cooperation with the security or intelligence agencies of a foreign State.[36] He is currently held in Penal Colony No. 19 in Mahiliou.

59. Mikalai Autukhovich has been punished for the last two years,[37] with new punishments imposed when older ones expire. On 4 September 2013, one month before the end of one set of punishments, he was again punished for allegedly failing to be in bed on time. He was consequently deprived of receiving parcels and meeting with relatives.

60. Former political prisoners who have been pardoned over the past year still face a preventive supervision procedure,[38] restricting their travel and requiring them to regularly report to the police. None have had their civil and political rights fully restored: they are prohibited from running for or occupying public office and must obey restrictions including a curfew, bans on involvement in demonstrations and a requirement to inform the

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[31] Zmitser Dashkevich was released on 28 August 2013.

[32] Pavel Seviarynets was released on 19 October 2013.

[33] See footnote 21 above, p. 4.

[34] Sentenced on 26 May 2011 under Part 1, article 293 of the Criminal Code of Belarus.

[35] An unregistered organization.

[36] Sentenced on 13 November, 2012 under para. 1, Article 14 and Article 356-1 of the Criminal Code of Belarus; see also footnote 21 above.

[37] Human Rights Center "Viasna", "Prison authorities keep harassing Mikalai Autukhovich", 18 September 2013 (http://spring96.org/en/news/65915).

[38] Article 80 of the Criminal Code (http://etalonline.by/?type=text&regnum=HK9900275#load_text_none_1_).

authorities about any change in their place of residence. Misdemeanours and violations of three of these restrictions within a one-year period may result in a criminal sentence.[39]

61. The President has the power to issue a pardon through a Presidential Decree. He has the prerogative to pardon a person[40] regardless of whether the latter has requested one. However, the President has repeatedly claimed that he cannot grant a pardon in the absence of a petition.[41] In 2008, however, Alexander Kozulin (2006 presidential candidate) was pardoned without a petition. A further example is from August and September 2011, when more than 30 people were pardoned, 12 of whom had not submitted a petition.[42] The arbitrariness of the procedure exists within a broader system lacking the rule of law.

62. The Special Rapporteur once again calls upon the authorities to release immediately and unconditionally all those imprisoned for the exercise of their political and other rights (A/HRC/23/52, para. 119(a)). He calls on the authorities to ensure that the rights of those political prisoners who have been released are immediately and fully rehabilitated.

63. The Special Rapporteur remains alarmed that any person can be arrested and detained at any time in reprisal for disagreement with or criticism of the authorities or for engaging in the promotion of human rights. Such use of criminal law by *desiderata* is arbitrary and violates the basic principles of the rule of law.

G. Enforced disappearances

64. There remains no progress in solving the outstanding cases of enforced disappearances dating back to 1999 and 2000, when Viktar Hanchar, a former member of Parliament and his associate, Anatol Krasouski, as well as Yury Zakharenko, former Minister of the Interior, and Dimitry Zavadsky, an investigative journalist, were abducted. All were noted political opponents of President Lukashenka. Numerous testimonies and accounts collected by the Working Group on Enforced or Involuntary Disappearances and the Human Rights Committee stated that the disappearances, some of which were committed on busy streets, were assisted by actual and former members of the law enforcement agencies. Nevertheless, the authorities merely notify the relatives of the victims every three months that there is "no result" in any of the cases.

65. Relatives and lawyers again expressed their concern to the Special Rapporteur that, owing to the statute of limitations in the Criminal Code, the cases would be officially closed in 2014 and 2015 – that is, 15 years after the four persons disappeared.[43]

66. The Special Rapporteur calls upon the authorities to urgently investigate the fate of the disappeared persons.

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[39] Human Rights Watch, *World Report 2013: Events of 2012* (New York, Seven Stories Press, 2013), p. 406.

[40] http://www.pravo.by/main.aspx?guid=3871&p0=h11200387&p2={NRPA}.

[41] http://naviny.by/rubrics/politic/2012/11/27/ic_news_112_406171.

[42] http://spring96.org/files/reviews/en/2012_review_en.pdf.

[43] A/HRC/23/52, para. 46–49, and E/CN.4/2001/68, paras. 107–108.

H. Death penalty[44]

67. In 2013, courts issued death sentences to four people for murder - Ryhor Yuzepchuk, Pavel Sialiun, Eduard Lykau and Aliaksandr Hrunou. In October, the Supreme Court of Belarus annulled the sentence of Aliaksandr Hrunou, ruling the case should be reinvestigated.[45] Having reconsidered the case, on 24 December 2013, the Homel Regional Court reissued the death penalty. Before the reconsideration of the case,[46] President Lukashenka publicly called on the judiciary for a renewed death sentence for Aliaksandr Hrunou, by stating:

> if you are a scoundrel and a bastard, and it is not the first time you kill someone, then what right do you have to live on this earth? I am not bloodthirsty, but retribution and punishment should be appropriate. Otherwise, we would never put things in order and never lower the temperature in this society. Grave crimes must be punished with maximal severity.[47]

68. Information on death sentences remains limited for relatives and the general public. Since the leaks of Ryhor Yazepchuk having been sentenced to death, it has been difficult to obtain details, including whether he has been executed.

69. Concern remains regarding due process in death penalty cases heard behind closed doors and prejudice towards defendants publicized by the highest level of power..

70. The establishment in December 2012 of a parliamentary working group on the death penalty was viewed by the Special Rapporteur in his 2013 report as a promising development. However, it has yet to yield the expected progress on the issue. In the early months of 2013, Petr Miklashevich, the Chairman of the Constitutional Court, stressed several times that the "question of a moratorium on the death penalty remains open", although not on the agenda in the foreseeable future (A/HRC/23/52, para. 27). One year on, this seems to be the reality.

71. The Special Rapporteur is convinced that leaders should promote the exercise of reason over popular passion regarding criminal justice. An immediate moratorium is critical due to the serious breaches to the right to a fair trial (A/HRC/23/52, para. 42).

I. Freedom of opinion and expression

72. Belarus has no privately-owned nationwide broadcasting channels, with the Government retaining strict guidance and control over the media. Television and radio continue to be controlled by Belteleradiocompany. It owns four of the six nationwide channels,[48] with the additional two owned by other State companies. There are no public service channels.

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[44] Executions are carried out by a gunshot to the back of the head. There is a lack of transparency about persons held on death row, and an inadequate procedure for appeals. Annual statistics on the use of the death penalty are not available, nor are the names of most of those who have been already executed. Those facing the death penalty, and their relatives, are not informed of the scheduled date of execution; following the execution, the relatives are not informed of where the body is buried. (A/HRC/23/52, para. 42).

[45] See footnote 39 above, p. 423.

[46] Human Rights Center "Viasna", "Supreme Court to consider appeal against repeated death sentence for Aliaksandr Hrunou", 20 February 2014 (http://dp.spring96.org/en/news/69257).

[47] http://telegraf.by/2013/11/Lukashenko-vines-prigovor-ubitse-devushki-iz-gomelya.

[48] http://www.tvr.by/eng/about.asp.

73. Belsat, located in Poland, remains the only independent TV channel broadcast in Belarus. It has been refused permission to open an editorial office in Belarus.[49] In 2013, a positive step saw the authorities prolong the accreditation of the editorial office of EURORADIO, which broadcasts in Belarusian from Poland.[50]

74. In early 2014, a State subsidy of nearly 5 million EUR was given to 400 State-owned newspapers.[51] They enjoy exclusive advertising support from the 70 per cent-strong State economy. Privately owned companies are intimidated into following the patterns of State advertising. The supply of printing paper, printing, subscription and distribution systems are all State-guided and systematically discriminate against the independent print press.[52]

75. Article 13 of the law on mass media provides for the obligatory registration of any printed publication with a circulation of more than 299 copies; even publications under 300 copies have to rent offices, pay taxes and employ editors. An editorial board must be registered as a legal entity, and only then can apply to register as a media outlet. As a precondition, it must have separate offices on non-residential premises.[53] Editors of new media outlets must have higher education and at least five years of work experience.[54] These restrictions contradict the guidelines issued by the Human Rights Committee on small-circulation publications.[55]

76. Article 51 of the law on mass media allows for the closure by the Ministry of Information or the Prosecutor-General of any media outlet in case of either a single violation of provisions or the issuance of two or more written warnings in one year.[56] While the number of warnings diminished in 2013, regulations were not case[d].

77. The online media continued to be severely affected by a new trend of applying extrajournalistic regulations to web activities (A/HRC/23/52, para. 79), as well as specific Internet-related restrictions.[57]

78. In 2013, 40 websites were banned in a non-judicial procedure, including the sites of the Human Rights Center "Viasna", Charter'97 and Belarusian Partisan.[58] The website of the Human Rights Center "Viasna" is blacklisted on a decision of the Prosecutor-General, the rationale being that it is an unregistered organization and that "the materials posted on the website do damage to the Republic of Belarus". The Human Rights Center "Viasna" has appealed the decision.

[49] Belsat, "Belsat denied registration yet again", 12 April 2013 (http://belsat.eu/en/aktualnosci/a,13489,belsat-denied-registration-yet-again.html).

[50] EURORADIO, "Belarus extends accreditation for Euroradio bureau", 15 November 2013 (http://euroradio.fm/en/euroradio-correspondent-office-prolongs-accreditation-belarus).

[51] http://pravo.by/main.aspx?guid=3871&p0=H11300095&p1=1&p5=0.

[52] Civic Solidarity, *Belarus: Time for Media Reform: Policy Paper on Media Freedom in Belarus* (2014) (http://civicsolidarity.org/sites/default/files/idx_belarus_eng_webres_final.pdf).

[53] http://mininform.gov.by/_modules/_cfiles/files/Postanovlenie_MI_n_18_ot_07.10.2009.doc.

[54] http://law.by/main.aspx?guid=3871&p0=H10800427e.

[55] *Vladimir Petrovich Laptsevich* v. *Belarus*, Communication No. 780/1997, U.N. Doc. CCPR/C/68/D/780/1997 (2000).

[56] http://law.by/main.aspx?guid=3871&p0=H10900427e.

[57] Index, *Belarus: Pulling the Plug: Policy Paper on Digital Challenges to Freedom of Expression in Belarus* (2013) (http://www.indexoncensorship.org/wp-content/uploads/2013/01/IDX_Belarus_ENG_WebRes.pdf).

[58] http://www.belgie.by/node/216.

79. In 2013, amendments to the law on information and the protection of information[59] introduced changes to the procedure for the State registration of publishing activities. Organizations engaged in publishing activities must be registered with the Ministry of Information (in addition to needing to be licensed for these activities). Several NGOs attempted to provide proposals for the legislative process, but none were taken into account.

80. Journalists continue to face interference in their work. Arbitrary detention of journalists continued in 2013. The Belarusian Association of Journalists reported 45 detentions as of November 2013; 20 of these cases saw journalists detained, with 4 resulting in administrative arrests of between 3 to 15 days.[60]

81. No progress has been reported in the cases of journalists Veranika Charkasava (murdered on 20 October 2004), Vasil Hrodnikau (found dead on 18 October 2005) and Aleh Biabenin (found dead on 3 September 2010).[61] An investigation into the case of Veranika Charkasava has been suspended;[62] details of the official results of the investigations into the deaths of Vasil Hrodnikau and Aleh Biabenin are being challenged by relatives.[63]

82. The Special Rapporteur notes that Belarus has been repeatedly called upon to effectively guarantee the freedom of expression, which is both an international and constitutional obligation of the Government.[64] Deep concerns have been expressed about the Government undermining the independence of print and audiovisual media, its harassment and intimidation of journalists and dissident Internet users, and its denial of access to public broadcasting facilities by political opponents to the Government.[65] Belarus has frequently been called upon to remove all forms of excessive administrative, financial and legal restrictions on the freedom of the media, in order to permit the widest possible dissemination of independent media and suppress all forms of direct and indirect censorship.[66]

J. Access to information

83. In Belarus, there is no legislation that guarantees citizens' right to access Government information of public interest and to protect the privacy of their personal data.[67]

84. Despite the January 2014 amendments on the law on information, information technologies and protection of information, guarantees are still lacking in the protection of

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[59] http://www.pravo.by/main.aspx?guid=3871&p0=h10800455&p2={NRPA}.

[60] Belarusian Association of Journalists, "Mass media in Belarus: e-newsletter", October–December 2013 (http://www.baj.by/sites/default/files/monitoring_pdf/5342013_mass_media_in_belarus_en.pdf).

[61] Belarusian Association of Journalists, "Unsolved cases", 30 December 2011 (http://baj.by/en/scandals).

[62] Belarusian Association of Journalists , "Investigation into Veranika Charkasava cases suspended", 22 October 2013 (http://baj.by/en/node/22632).

[63] Index, "Suspicions over 'suicide' of Belarus activist Aleh Byabenin", 4 September 2010 (http://www.indexoncensorship.org/2010/09/belarus-aleh-byabenin/).

[64] A/HRC/15/16, para 97.39; CAT/C/BLR/CO/4, para. 14(b).

[65] CCPR/C/79/Add.86, para. 17; CAT/C/BLR/CO/4, para. 25; ; E/CN.4/2005/35, paras. 34–42; A/HRC/23/52, paras. 74–81; A/68/276, paras. 42–43; A/HRC/25/55/Add.3, para. 63; A/HRC/20/8, paras. 52–58.

[66] E/CN.4/2005/35, para. 94; A/HRC/20/8, paras. 51 and 75(h).

[67] Access Info Europe/Centre for Law and Democracy, "Global right to information map". Available from http://www.rti-rating.org/.

personal data, as a separate law on access to information and protection of personal data should have been adopted.

85. No legal mechanism is provided for the protection of personal data. All personal data is collected in the Unified Register of Population of Belarus in accordance with the law on population registry, which came into force on 26 July 2013.[68] There is no openness and transparency on the use of this data, and little public oversight.

86. Citizen and media access to data of public interest is hindered by the provisions of the law on State secrets. There is no clear definition of a "State secret". Around 60 entities (including such organizations as the State-owned national broadcaster Belteleradiocompany) can classify a document as "secret information" and mark it accordingly as "confidential". The term "official information" is also used, i.e. any public agency may classify any inside information at their own discretion.[69]

K. Freedom of peaceful assembly

87. The law on mass events in Belarus restricts permissible locations to such an extent that demonstrations in city centres are not possible. The law requires organizers to pay for services and restricts who can organize events (no minors and only citizens). It defines pickets as one-man actions; even these need to obtain a permit. Moreover, it provides for the liquidation of any organization that violates these rules.

88. Most public protests end with arrests and fines, regardless of whether they are sanctioned.[70] Even at sanctioned events, repressive measures have been reportedly used by police. The 2014 Freedom Day March on 25 March (marking the anniversary of the Belarusian Popular Republic of 1919) reportedly saw the largest crowd since the 2011 protests around the 2010 December presidential elections. Maksim Vinyarski of the European Belarusian Movement, one of 12 activists arrested during the annual Freedom Day March, was sentenced to 15 days' administrative arrest for allegedly chanting extremist slogans and using vulgar words.[71]

89. On 12 November 2013, the Human Rights Committee found Belarus to have violated the right to peaceful assembly of Uladzimir Siakerka, Chairman of the Homel regional branch of the Belarusian Left Party "Fair World" by banning a rally against the abolition of social benefits that had been scheduled for December 2007.[72]

90. A notable trend is the prosecution of people who use modern information technology to organize events or report on them. There have been reports of arrests, detentions and fines in cases that include: group sledding in Slonim; a photo of BATE Borisov football club fans in support of Maidan (Kyiv); and people being held responsible for putting up Internet posts in support of the demonstrations in Ukraine.[73]

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[68] http://www.pravo.by/main.aspx?guid=3871&p0=H10800418.

[69] See footnote 52 above, p. 19.

[70] Vadzim Bylina, "Public protests in Belarus: the opposition is changing tactics", *Belarus Digest – News and Analysis of Belarusian Politics, Economy, Human Rights and Myths* (12 March 2014) (http://belarusdigest.com/print/17123).

[71] Radio Free Europe/Radio Liberty, "Belarusian activist sentenced for taking part in pro-Ukraine demo", 26 March 2014 (http://www.rferl.org/content/belarus-activist-arrested-pro-ukraine/25309982.html).

[72] Belarusian Legal Portal, "On Human Rights Day Homel Center for Strategic Litigation summed year's results", 10 December 2013 (http://prava-by.info/en/archives/3686).

[73] http://news.tut.by/society/385064.html; http://www.belaruspartisan.org/life/256222.

91. On 4 August, the anniversary of the arrest of Ales Bialiatski, NGOs planned to hold an event on freedom for political prisoners. Seventeen NGO representatives applied to hold pickets, and were all rejected. Various detentions ensued for participation in pickets, including the detentions of Uladzimir Labkovich and Tatiana Ravyaka. A Minsk court fined them each 3 million Belarusian roubles (approximately US$ 350) for violating regulations on organizing public events.[74]

92. In December 2013, two gay pride events scheduled in Minsk had to be cancelled as permission was not granted.[75] At the last minute, the owners of the premises where the events were to be held refused to lease them.

93. In 2013, more than 100 pickets were prohibited (i.e. the permits were denied),[76] yet the number of individual protests grew.[77]

94. The Special Rapporteur notes that since 1997, Belarus has been called upon by the United Nations human rights mechanisms to guarantee that civic organizations, human rights defenders, political parties and unions are able carry out their legitimate activities without fear of reprisals, restrictions, judicial harassment and intimidation, including peaceful exercise of their right to freedom of assembly.[78] This should be achieved by reviewing the national legislation of Belarus, particularly on the issuance of permissions for holding assemblies (A/HRC/15/16, para 98.34) and the decriminalization of public activities without official permission (A/68/276, para. 118(n)).

L. Freedom of association

95. Despite the 2013 amendments to the law on public associations, restrictions remain to freedom of association. NGO registration remains complicated, time-consuming and costly. Unregistered public associations, foundations and their members face criminal liability under article 193.1 of the Criminal Code. The receipt of in-country and foreign funding remains restricted.[79]

96. In the past year, the NGO Brest Christian Democracy was refused registration[80] and the NGO Tell the Truth was denied registration for the third time.[81] The complaint of the non-registered NGO GayBelarus[82] was returned without consideration by the Supreme Court. Following this, GayBelarus activists faced threats and harassment with reference made to their criminal responsibility under article 193.1 of the Criminal Code. After five unsuccessful attempts to reregister, the Human Rights Center "Viasna" remains

[74] See footnote 39 above, p. 421.

[75] http://euroradio.fm/ru/lgbt-aktivistam-ne-dali-provesti-ni-odnoy-vecherinki-v-minske.

[76] Freedom House, "Freedom on the Net 2013: key developments: May 2012–April 2013" (http://www.freedomhouse.org/report/freedom-net/2013/belarus).

[77] See footnote 70 above.

[78] A/HRC/15/16, paras. 98.9 and 98.31; A/HRC/20/8, para. 75; A/HRC/23/52, para. 119; A/68/276, para. 118(p) and (r).

[79] Frontline Defenders, "Belarus: risk of prison for unregistered human rights groups under article 193.1 of the Criminal Code", 23 June 2009 (http://www.frontlinedefenders.org/node/2073). See footnote 21 above, pp. 47, 56 and 92.

[80] Human Rights Center "Viasna", "Authorities refuse to register association 'Brest Christian Democrats'", 21 August 2013 (http://spring96.org/en/news/65341). See also footnote 21 above, p. 155.

[81] Naviny.by Belarus News, "Justice Ministry denies registration to 'Tell the Truth' movement", 16 June 2013 (http://naviny.by/rubrics/english/2013/06/17/ic_news_259_419143). See also footnote 21 above, p. 107.

[82] http://www.gaybelarus.by/.

unregistered.[83] The Special Rapporteur is worried that one of the largest NGOs in the country – internationally recognized and respected – has consistently been denied registration.

97. The Special Rapporteur reiterates the need to review, without delay, the systematically restrictive regulations relating to registration and activities of NGOs and trade unions, in order to facilitate their establishment and free operation[84] through a non-onerous process (A/HRC/23/52, para. 119(m)), and to decriminalize membership in unregistered NGOs.[85]

98. Since 1997, freedom of association has become more limited, underpinned by complex legislation. Journalists and human rights organizations and defenders appear to be under particular scrutiny, intimidation or harassment, raising concerns for their protection, safety and ability to work in a safe and secure environment.[86]

99. Political parties face constricting registration regulations (A/68/276, para. 56) and are prohibited from receiving gratuitous foreign aid for a specific list of activities.[87]

100. The Special Rapporteur considers that Belarus cannot expect to improve its human rights situation, including its economic, social and cultural record, without allowing NGOs to operate independently without hindrance or threats. Opening up dialogue with the participation of a broad variety of civil society organizations in public affairs can significantly contribute to shaping the future of the country. This would help build people's trust and confidence in the Government and institutions.

M. Trade unions

101. For many years, Belarus has been advised to bring its legislative framework on trade unions and strikes in line with the obligation to ensure freedom of activity of trade unions and the right to strike, to organize and to collective bargaining.[88]

102. While the Federation of Trade Unions states that 98 per cent of workers are trade union members, only 40 per cent of workers surveyed state that they belong to a union. In practice, workers have to be formally registered with the Federation of Trade Unions before they are hired. As with associations, registration for trade unions is impeded by bureaucratic administrative regulations. Presidential Decree No. 2, adopted on 24 January 2013, on some measures to regulate the activities of political parties, trade unions and other NGOs, places severe restrictions on the formation and registration of trade unions. All trade unions, if registered prior to this, have had to reregister. Registration is a long and complicated procedure. Without it, trade union activities are banned and the trade union faces dissolution.

103. At the 102nd session of the International Labour Organization (ILO) Committee on the Application of Conventions and Recommendations in June 2013, Belarus was again urged to take the necessary measure to amend Presidential Decree No. 2 to remove the obstacles to trade union registration, and had already proposed revoking the 10 per cent membership requirement for the establishment of a union at the enterprise level. Moreover,

[83] CCPR/C/90/D/1296/2004.
[84] CCPR/C/79/Add.86, para. 19; A/68/276, para. 118(p); A/HRC/15/16, paras 98.10 and 98.35.
[85] CEDAW/C/BLR/CO/7, para. 24; A/HRC/15/16, paras. 98.28 and 98.30.
[86] CCPR/C/79/Add.86, para. 19; A/HRC/20/8, paras. 59 and 75; A/HRC/15/16, paras. 98.27, 98.31 and 98.33; A/HRC/23/52, para. 94.
[87] A/68/276, para. 57; E/CN.4/2006/36, paras. 44–45.
[88] E/C.12/1/Add.7/Rev.1, para. 22; E/C.12/BLR/CO/4-6, para. 17; GB.318/INS/5/2, para. 26.

the Committee found that no concrete proposals to amend the legal address requirement, which hinders registration, had been taken.[89]

104. On 30 August 2013, the International Trade Union Confederation reported to ILO numerous allegations of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).[90] These include the denial of the right to hold pickets and demonstrations, the deregistration of a primary trade union affiliated to the Radio and Electronic Workers' Union and pressure and threats from the authorities against leaders of the Free Metal Workers' Union.

105. The Special Rapporteur notes the request of the ILO Committee to the Government to intensify its efforts in ensuring the freedom of association and respect for civil liberties are fully and effectively guaranteed in law and in practice, as well as its cooperation with all social partners.[91]

106. There is a need to review the overtly restrictive regulations relating to registration and activities of trade unions, in order to facilitate their establishment and free operation.[92]

N. Just and favourable conditions of work

107. Permanent, open-ended labour contracts have recently been replaced by short-term contracts in various sectors. A large proportion of workers (up to 90 per cent – exceptions being in the public service and some industrial sectors) are in a precarious situation, threatened with their contract not being renewed. Short-term contracts are the rule, not the exception, and are in violation of the International Covenant on Economic, Social and Cultural Rights. Such contracts subject workers to pressure, threats and discrimination (A/HRC/23/52, paras. 103–107).

108. The system imposed by both employment regulations and practices is that basic wages are complemented by bonuses. They represent an important proportion of monthly income but are not considered part of salary, and can therefore be arbitrarily suspended or suppressed at any time.

109. The situation created by Presidential Decree No. 9 of 7 December 2012 on additional measures to develop the woodworking industry continued to make it virtually impossible for workers to resign or have their contracts extended should they disagree with their working conditions (*ibid.*, paras. 106–107). The Decree violates the principle to freely choose and accept work.[93]

110. Complaints registered during consultations by the Special Rapporteur persist that provisions in the field of labour are applied in a discriminatory way against persons

[89] Observation (CEACR) adopted 2013, published 103rd ILC session (2014), Follow-up to the conclusions of the Committee on the Application of Standards (International Labour Conference, 102nd Session, June 2013), Follow-up to the recommendations of the Commission of Inquiry (Complaint made under article 26 of the Constitution of the ILO) (http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3148992:NO)

[90] Ratified by Belarus in 1956.

[91] See footnote 89 above.

[92] CCPR/C/79/Add.86, para. 19; A/68/276, para. 118(p); A/HRC/15/16, paras. 98.10 and 98.35.

[93] Article 6 of the International Covenant on Economic, Social and Cultural Rights.

perceived as not following the line of the authorities. Article 14 of the Labour Code remains the only law that lists possible grounds for discrimination.[94]

111. The Special Rapporteur considers that Belarus should enshrine in its legal system the principle of non-discrimination in employment on all grounds, including indirect discrimination, in accordance with international standards.

O. Forced labour

112. The Special Rapporteur received reports of individuals being forced to work in circumstances unrelated to their occupations or situations. Such labour practices can be observed in a variety of ways in Belarus. Conscripts are obliged to carry out unpaid work unrelated to their military service activities. National, regional and local authorities regularly impose unpaid work on the working population through "subbotniks" (*ibid.*, para. 105). In theory, participation is on a voluntary basis; in practice, non-participation results in negative repercussions, such as the non-renewal of a short-term contract and arbitrary elimination of monthly bonuses. In detention facilities, inmates cannot choose the work they perform, nor can they refuse to undertake work. Graduates who received their education for free must work under assignment for one year after vocational education, or with a two-year assignment after a specialized secondary or higher education. All places are determined by a graduate assignment committee.

113. The Special Rapporteur recalls that the ILO regards the prohibition of forced labour as the cornerstone of international labour law (*ibid.*).

P. Discrimination

114. Despite that general principles of equality and non-discrimination are guaranteed in article 22 of the Constitution, no national legislation has been passed defining discrimination in a comprehensive, holistic way. There are no legal provisions on indirect discrimination.

115. Courts do not accept discrimination as a basis for lawsuits (A/HRC/23/52, para. 96). As a result, there is no court practice for hearing cases of discrimination.

116. Public servants are not trained in the prevention and identification of discriminatory practice. This is of particular concern due to the reports received by NGOs regarding discriminatory practice towards women and against minorities, in particular religious minorities, Roma and lesbian, gay, bisexual and transgender people.

Q. Persons with disabilities

117. The Interagency Council on Disability Issues under the Council of Ministers meets annually. There is limited information on attempts made by legislators to address meaningfully the concerns of persons with disabilities.

118. The 2013 Labour Code amendments do not give further guarantees for persons with disabilities against discrimination.

[94] Including based on sex, race, national origin, language, religious or political views, membership of trade union membership or non-membership of trade union or other public association.

119. Architectural accessibility is of concern, and the exact number of facilities architecturally accessible for the disabled remains unavailable.

120. Access to justice is dependent on a court assessment and a decision about the health of the individual; based on this, a person is invited to trial. In 2013, two cases on a barrier-free environment were considered in court, with both being won by the complainants. Despite this, the architectural barriers have not been removed due to the officers' inaction and inefficiency of the judicial system.

R. Gender

121. Belarus has been called upon to mainstream gender perspectives and ensure an approach to all policies ensuring gender equality, including combating stereotypical social roles and providing training to teachers, parliamentarians, judiciary, law enforcement personnel and women themselves.[95] NGOs report that efforts are underway in this field but that more needs to be done.

122. In order to redress the lack of an institutional framework to promote the integration of women into civil society and economic and political life,[96] successive recommendations by international human rights mechanisms have referred to the need to improve women's situation in the labour market, increase representation in senior positions and Government, and address the persistent pay gap by combating segregation in employment and obstacles to equal career prospects.[97] Similarly, there have been calls to undertake a legislative review, introducing anti-discrimination legislation and creating adequate judicial remedies.[98]

123. The Special Rapporteur highlights the need to introduce criminal legislation on domestic violence and marital rape, providing victims with immediate protection, long-term rehabilitation and broader awareness-raising, and relevant training for judges, lawyers, law enforcement agencies, social workers and the public at large.[99]

S. Minorities

1. Ethnicity

124. Belarus has been urged to work towards coordination of media to promote stable relations among ethnic groups (A/HRC/15/16, para. 97.51). Appropriate measures suggested, and not implemented to date, involve establishing an independent human rights institution,[100] human rights training (CERD/C/65/CO/2, para. 14), introducing judicial remedies and informing the public of their availability,[101] accepting discrimination as basis for lawsuits,[102] ensuring equal access to education (A/HRC/15/16, para. 98.14),[103] defining

[95] A/59/38, paras. 337–342; CEDAW/C/BLR/CO/7, paras. 14 and 18; A/55/38, para. 362.
[96] A/HRC/15/16, para 97.5; A/55/38, para. 356; A/59/38, para. 343; CEDAW/C/BLR/CO/7, para. 24.
[97] E/C.12/BLR/CO/4-6, paras. 11(b) and 12; E/CN.4/2006/36, para. 66; A/55/38, paras. 355, 359 and 365–366; A/59/38, paras. 351–352 and 357–358; CEDAW/C/BLR/CO/7, para. 32; A/HRC/15/16, paras 97.42–97.43; E/C.12/1/Add.7/Rev.1, para. 23; A/HRC/4/16, para. 43.
[98] A/HRC/23/52, paras. 95–99; A/55/38, para. 360; A/59/38, paras. 333–336; CEDAW/C/BLR/CO/7, para. 12.
[99] CAT/C/BLR/CO/4, para. 22; A/55/38, paras. 369–370; A/59/38, paras. 347–348; CEDAW/C/BLR/CO/7, para. 20.
[100] CERD/C/65/CO/2, para. 13; CERD/C/BLR/CO/18-19, para. 15.
[101] CERD/C/65/CO/2, para. 12; E/C.12/BLR/CO/4-6, para. 8(a)–(b); CERD/C/BLR/CO/18-19, para. 13.
[102] CERD/C/BLR/CO/18-19, para. 9; A/HRC/23/52, para. 96.

discrimination by statute[104] and extending the scope of labour law to indirect discrimination (CERD/C/BLR/CO/18-19, para. 11).[105]

2. Roma

125. The extent of discrimination faced by the Roma has frequently been pointed out, as well as the need to ensure their full participation in various mechanisms, including integration into the labour market and the education system. Specific measures are required to retain Roma students at school through awareness-raising, financial support and scholarships.[106]

3. Language

126. Concerns have been raised as to the limited use of the Belarusian language in education and cultural life because of a seemingly concerted effort to restrict promotion of the language and national identity through cultural activities and unofficial commemorations. It has been recommended that Belarus acts to ensure the unrestricted exercise of the right to promote, preserve and participate in cultural life.[107]

T. Elections

127. As reported by the Special Rapporteur to the General Assembly, the rights to vote and to be elected at genuine periodic elections are not guaranteed in Belarus (A/HRC/15/16, para. 18.14).[108]

128. In November 2013, the electoral code amendments were adopted in an atmosphere of secrecy. The new features, such as a one-round system replacing the previous two rounds, restrictive permission procedures for election-time public activities and the criminalization of calls for boycott, further restrict the democratic space and diminish the chances of the political opposition, thus strengthening the atmosphere of control and pressure against alternative political thoughts. The visit of the Office of Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe to Minsk in October 2013 found that practically none of the recommendations they provided after the 2012 parliamentary elections had been implemented.[109]

129. On 23 March 2014, local elections took place in Belarus. The national election observation, including the campaign "Human Rights Defenders for Free Elections" and the joint election NGO monitoring initiative "Right to Choose" both found that the elections were neither free nor fair.[110]

130. .In the local elections, the right to elect was in practice denied by the fact that 88 per cent of constituencies were uncontested, and in two districts elections did not take place.

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[104] CERD/C/BLR/CO/18-19, para. 8; A/HRC/23/52, para. 95.

[105] E/C.12/BLR/CO/4-6, para. 27; A/HRC/15/16, para. 98.14; CERD/C/65/CO/2, para. 10; CERD/C/BLR/CO/18-19, para. 16; A/HRC/4/16, para. 50.

[106] E/C.12/BLR/CO/4-6, paras. 29–30; E/CN.4/2005/35, paras. 63–64; E/CN.4/2006/36, paras. 89–90.

[107] Organization for Security and Co-operation in Europe, "OSCE/ODIHR presents recommendations from final report on 2012 parliamentary elections in Belarus", 7 March 2013 (http://www.osce.org/odihr/elections/100017).

[108] Human Rights Center "Viasna", "Monitoring report on local elections of the 27th convocation", 24 March 2014 (http://spring96.org/en/news/70122).

The election campaign was almost invisible. Lack of information for voters was also caused by the limiting financing requirements for candidates, as introduced through the 2013 Electoral Code amendments.

131. The Special Rapporteur expresses concern that the 2013 electoral reform was not inclusive of stakeholders, resulting in legislation that does not meet international norms and standards.

VI. Conclusions and recommendations

132. **The Special Rapporteur concludes that there has been very little progress in the area of human rights since he last reported to the Human Rights Council in June 2013. In fact, in areas where last year he had identified possible positive developments, the situation appears to have come to a standstill.**

133. **The Special Rapporteur observes an ongoing situation where the Government makes little effort to promote and protect human rights for those who live in Belarus. The review of the recommendations and observations of the United Nations human rights mechanisms only underlines the both systematic and systemic nature of the human rights violations that are consistently reported in Belarus.**

134. **The concerns and recommendations made by the United Nations human rights mechanisms have for, the most part, neither been implemented nor followed up on. They include shortcomings of rule of law institutions, lack of accountability for human rights violations and thus ensuing impunity.**

135. **The shortcomings that lead to persistent human rights violations must be addressed promptly through swift and effective institutional responses in order to contribute to strengthening the national human rights protection system.**

136. **With this in mind, the Special Rapporteur urges the Government to undertake measures to implement comprehensively all the recommendations made by the United Nations human rights mechanisms – treaty bodies, the Universal Periodic Review, special procedures and those from the High Commissioner for Human Rights.**

137. **The Special Rapporteur is grateful to all those who provided detailed first-hand information for his assessment. He regrets the fact that the Government did not avail itself of this opportunity. He again reiterates his readiness to fully cooperate with the Government, starting with issues that both sides acknowledge as human rights concerns.**[111]

138. **The Special Rapporteur stands ready to continue to offer his support to civil society, in accordance with his mandate, and acknowledges their spirit and commitment to the protection of human rights for all.**

139. **The Special Rapporteur recommends the following:**

(a) Release immediately and unconditionally all political opponents, human rights defenders and activists who have been convicted solely for the exercise of their political and other rights, and ensure their full rehabilitation;

(b) Repeal article 193.1 of the Criminal Code that criminalizes public activities without official permission, and fully review legislation affecting the work of

[111] Letter of 24 March 2014 to Vladimir Makey, Minister of Foreign Affairs, from the Special Rapporteur, requesting a visit to the country to discuss findings and recommendations of the report.

non-governmental organizations and human rights defenders to bring it into line with Human Rights Council resolution 22/6 of 21 March 2013;

(c) Take measures leading to meaningful political accountability, including the strengthening of checks and balances in the political system, the removal of impediments to the active engagement of non-governmental organizations and opposition parties in political life and the even-handed application of the rule of law; put in place an independent review process of the excessive use of presidential decrees in governance, with the aim to reform law-making procedures;

(d) Activate the work of the parliamentary working group on the death penalty, release comprehensive information on those executed to date and establish an immediate moratorium on the use of the death penalty with a view to its permanent abolition;

(e) Re-engage and expedite efforts to establish a national human rights institution in accordance with the Paris Principles;

(f) Remove legal and institutional obstacles, to guarantee the independence of the judiciary in accordance with the Basic Principles on the Independence of the Judiciary;

(g) Reform the bar association in order to guarantee its independence from the Ministry of Justice, and investigate cases of lawyers whose licences have been revoked;

(h) Investigate the fate of disappeared persons;

(i) Ensure that all detainees are informed promptly of the reasons for their detention and any charges against them, and allow them regular access to a lawyer of their choice and to their families;

(j) Ensure the absolute prohibition of torture and other ill-treatment in law and in practice, and take measures to bring conditions of detention in places of deprivation of liberty into line with the Standard Minimum Rules for the Treatment of Prisoners and other relevant international and national law standards;

(k) Adopt promptly a comprehensive anti-discrimination legislation;

(l) Review and adopt clear and explicit legislation that is in favour of holding peaceful assemblies; ensure in practice their facilitation and protection; and recognize spontaneous assemblies in law and in practice, including by amending the law on mass events to comply with the Constitution and international standards, including by outlawing one-person pickets;

(m) Amend legislation and practice to ensure that associations may be established through a process that is transparent, accessible, non-discriminatory, expeditious and inexpensive in line with Human Rights Council resolution 22/6;

(n) Protect human rights defenders and journalists from harassment, intimidation and violence as a result of their activities, and conduct prompt, impartial and thorough investigations, prosecution and punishment of any such acts;

(o) Remove all legal and practical obstacles to international cooperation of civil society striving to strengthen the enjoyment of the liberties provided for in international treaties and documents, including the obstacles that block, hinder, put conditions to, and in particular the ones that criminalize or financially penalize, funding help from peer organizations abroad;

(p) Increase efforts to ensure the full implementation of the recommendations laid out in the reports of the International Labour Organization;

(q) Recognize free mass use of Internet-based media, including in publicly accessible spaces, and repeal regulations that grant the Government powers to sanction content in the press;

(r) Broaden the scope of cooperation with the United Nations, including the Office of High Commissioner for Human Rights, to undertake activities reflecting all the recommendations stemming from the human rights system;

(s) Recognize and extend full cooperation to the mandate holder by engaging in a substantive and constructive dialogue and facilitating a visit to the country.